

Application No. : 10/749,791  
Filed : December 29, 2003

### REMARKS

Claims 1-10 were pending in the application. By this paper, Applicant has amended Claims 1, 3, 4, and 7-10, and added new Claims 11-37. Accordingly, Claims 1-37 are presented for examination herein.

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#### *Power of Attorney*

Applicant includes herewith a duly executed Power of Attorney compliant with 37 CFR §1.32 authorizing the undersigned to prosecute the present application.

#### 10 *§102 Rejections*

**Claims 1 & 10** - The Examiner has rejected Claims 1 and 10 under 35 U.S.C. §102(b) as being anticipated by Masunaga et al. (U.S. Patent No. 6,909,699, hereinafter, "Masunaga").

By this paper, Applicant has amended independent Claim 1 and Claim 10 to include limitations relating to, *inter alia*, sending a ping from a first node to a second node; sending a  
15 response from the second node to the first node after receiving the ping; and calculating a maximum round trip delay between a first PHY of the first node and a second PHY of the second node based at least in part upon a jitter, and further based at least in part upon the response sent to the first node.

Support for these amendments is replete throughout Applicant's specification, and can be  
20 found, for example, in Paragraphs [0023], [0029], [0061], and in Table 1. Hence, no new matter has been added.

Applicant respectfully submits that Masunaga neither teaches nor suggests calculating a maximum round trip delay between a first PHY comprised within the first node and a second PHY comprised within the second node based at least in part upon jitter, as specifically claimed  
25 by Applicant. Jitter is neither referenced nor mentioned anywhere in Masunaga, nor does it appear in any way inherent in the disclosure of Masunaga.

Accordingly, Applicant submits that amended Claims 1 and 10 are both novel and non-obvious over the art of record, and in condition for allowance.

**Claims 2-9** – Claims 2-9 are directly or indirectly dependent upon Claim 1, and therefore  
30 are also in condition for allowance.

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*New Claims/Claim Amendments*

By this paper, Applicant has added new Claims 11-37. These new claims relate generally to the subject matter of Claims 1-10. Support for these new Claims 11-32 is replete throughout Applicant's specification, and can be found, for example, in Paragraphs [0023], [0029], [0061], and in Table 1. Hence, no new matter has been added.

Applicant submits that Claims 11-37 are also novel and non-obvious over the art of record.

*Other Remarks*

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.


Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.

Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims. If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

GAZDZINSKI & ASSOCIATES

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